REMARKS

Claims 1-42 remain pending in the application.

In the present Office Action, the Examiner requests further information supplemental to Applicant's amendment and response dated March 21, 2005. In particular, the examiner requests the Applicant point out support in the specification for the amendments and/or additional discussion regarding how the amended claims overcome the art. Accordingly, Applicant provides the following additional discussion. Applicant's previous comments in the amendment and response dated March 21, 2005, are incorporated herein by reference.

SUPPORT FOR CLAIM AMENDMENTS

As previously presented, claim 1 (marked to show the previous amendments) reads:

"A system for facilitating product purchases during television viewing in an interactive television system, the system comprising:
   a first source configured to convey television programming content;
   a second source configured to convey data corresponding to a product which is presented within the television programming content;
   a mechanism configured to:
      combine said television programming content and said data; and
      convey the combined television programming content and data as a broadcast stream; and
   a third source configured to convey an interactive application, wherein said interactive application is executable to:
      detect the data within the broadcast stream;
      present an indication corresponding to the detected data during presentation of the television programming content;
      receive user input corresponding to the indication; and
      store information related to the product in response to receiving the user input;
      wherein the user input is received and the information stored without interrupting presentation of the television programming content."
(Emphasis added to highlight limitations made in the previously presented amendment.)

As noted in the response of March 21, 2005, Applicant amended the claims to further clarify the nature of the invention. Generally speaking, most, if not all, of the amendments are supported by at least the Summary of Invention included in the specification. For example, the Summary describes:

"In one embodiment, a method and mechanism for facilitating **product purchases** in an interactive television system are described. Generally speaking, a broadcast programming stream is conveyed from a broadcast station to a receiver. In addition to **programming content**, the stream which is broadcast has been tagged with information describing products and services which may be purchased. Upon presentation of an advertisement or other program, **an indication such as an icon may be presented to a viewer that product or service information is available.** In one embodiment, a viewer may indicate an interest in the product or service by **pressing a button on a remote control and storing the corresponding product for later retrieval. . . .**

In one embodiment, a system for facilitating product purchases is described wherein a **first source** is configured to convey a broadcast stream including product information and a **second source** is configured to convey an executable interactive application. The application is configured to **detect product information in a broadcast stream, present an indication of its presence, receive input from a viewer corresponding to the indication, store the product information**, and subsequently retrieve the information for use in initiating a purchase request for the product.

Also contemplated is a device for facilitating purchases in an interactive television system. The device includes . . . and a mechanism . . . which is configured to **detect the presence of a product data within the broadcast stream, present an indication of the presence of the product data, receive input from a viewer corresponding to the indication, store the product data in response to the viewer input,** retrieve and present the stored data, and finally initiate a purchase request for the product."

In addition to the above, the following also provides support for the claim amendments:

"Fig. 4 illustrates an overview of one embodiment of a method for facilitating a viewer's purchase of a product or service being advertised on television. Initially, **information related to a product or service is added to a broadcast stream** (block 400) which is subsequently conveyed to a viewer (block 402). **In addition to displaying the ordinary audio/video corresponding the**

broadcast, an indication is displayed (block 404) to the viewer that product information is currently available." (Description, page 13, lines 9-14).

"In one embodiment, a method and mechanism for facilitating product purchases in an interactive television system are described. Generally speaking, a broadcast programming stream is conveyed from a broadcast station to a receiver. **In addition to programming content**, the stream which is broadcast has been tagged with **information describing products and services which may be purchased.**" (Description, page 4, lines 20-24).

It is noted that this amendment recites adding information related to products or services to a broadcast stream. Further, the claim recites that in addition to the displaying the ordinary audio/video of the broadcast, an indication is displayed which signals to the viewer that product information is available. This is supported in the specification by at least the following recitations. Furthermore, examples of data (information) corresponding to a product which is presented within the television programming content include those recited in the following excerpt from the specification.

"Before a viewer may access product information being conveyed with a broadcast, product information must be included in the broadcast stream (i.e., the broadcast is "tagged" with product information). Typically, product or service information will be inserted into a broadcast stream to coincide with an advertisement for that product or service. However, **product information may accompany any type of broadcast**. For example, **information related to a book which is being discussed on television** may be added to the broadcast. Similarly, **information related to music which is being played** may be added to the broadcast. Further, **information related to a product or service appearing in the scene of a movie or television show** may be added to the broadcast. Numerous variations are possible." (Description, page 14, lines 6-15).

Still further, additional support for the amendments may be found in the following:

"In the embodiment of Fig. 1, broadcast station 16 may include **a variety of sources 14, 15 and 16 of content to be utilized and conveyed by transmitter 22**. Content sources 14, 15, and 16 may include databases, application servers, other audio/video sources, or other data sources." (Description, page 8, lines 4-7).

"The interactive television signal may contain information in addition to the television programming. For example, **interactive application modules**, control signals or other data **may be embedded in the broadcast signal.** " (Description, page 11, lines 5-7).

"However, **rather than interrupting the viewer's viewing enjoyment** with several menus and selection options, **the product information may be simply stored** for later retrieval at a time which is more convenient. " (Description, page 13, lines 18-20).

Additional support for the claim amendments may be found throughout the specification.

REGARDING PATENTABILITY OVER THE CITED ART

To review, claims 1-7, 9, 10, 16, 25-28, 30, 31, 33, and 37 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Shintani (U.S. Patent No. 5,668,591; hereinafter referred to as "Shintani"). Claims 8, 11-13, 17-24, 29, 32, 38, 39 and 41 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shintani, in view of Kenney (U.S. Patent No. 6,026,376; hereinafter "Kenney"). Finally, claims 14, 15, 34, 35, 36, 40 and 42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shintani and the Examiner's Official Notice.

It is suggested that Shintani discloses all the features of prior independent claims 1, 16, 25 and 37. However, Applicant respectfully submits that each of the pending claims recite features which are not disclosed by Shintani or the other cited art, either singly or in combination. As amended, claim 1 reads:

"A system for facilitating product purchases during television viewing in an interactive television system, the system comprising:
   a first source configured to convey television programming content;
   a second source configured to convey data corresponding to a product which is
      presented within the television programming content;
   a mechanism configured to:
      combine said television programming content and said data; and
      convey the combined television programming content and data as a
      broadcast stream; and
   a third source configured to convey an interactive application, wherein said
   interactive application is executable to:
      detect the data within the broadcast stream;
      present an indication corresponding to the detected data during
         presentation of the television programming content;
      receive user input corresponding to the indication; and

store information related to the product in response to receiving the user input;

wherein the user input is received and the information stored without interrupting presentation of the television programming content."

In the above, a system is recited which facilitates product purchases during television viewing, without interrupting presentation of the television program. In the recitation, data corresponding to a product presented within television programming content is combined with the television programming content and conveyed as a broadcast stream. Also conveyed is an application which may detect the data, present a corresponding indication during presentation of the programming content, and store product information without interrupting the presentation.

In contrast to the Applicant's presently claimed invention, the cited art discloses entirely different systems and methods. For example, Shintani is directed to a mechanism dedicated for the purpose of downloading purchasing ("ordering") software, and making purchases thereby via a cable network. Kenney generally describes a "virtual" shopping experience. However, none of the cited art discloses or suggests all of the features as recited.

For example, Shintani discloses a system for facilitating the download (and or updating) of applications that are dedicated for a specific purpose. Execution of such an application provides the ability to engage in a particular activity. For example, Shintani discloses:

> "According to the information terminal apparatus of the present invention, as described hereinabove, it comprises an external information input port for receiving external software by radio means, a memory for storing the software received by the information input port, a controller operated in accordance with the software stored in the memory, and a display for visually representing various kinds of information in conformity with the execution of the software. Because of such constitution, the software is down-loaded every time a request is generated, so that the software can be updated in response to each request. Furthermore, maintenance of the software can be achieved with certainty as the software is distributed through a cable network. Additionally, it is rendered possible, by downloading different kinds of software, to attain another advantage of enjoying various services including games, home shopping, home banking and so forth." (Shintani, col. 6, lines 13-28).

Shintani then describes in relation to Fig. 4 and Fig. 5 the downloading of a first program which provides a viewer the opportunity to enter into one of three modes – GAME, SHOPPING, or AUCTION. In response to selecting one of the presented options, a corresponding application is downloaded to the viewer's device. Execution of the newly downloaded application allows the viewer to then enter the GAME, SHOPPING, or AUCTION mode. For example, Shintani discloses:

> "Now the operation performed in the above-described constitution of the embodiment will be described below with reference to FIGS. 4 and 5. In the initialized cable box 1, the software downloaded for ordering an application program is stored in its memory. And in the intelligent remote control unit 10, other software is stored for **selection of game, shopping or auction modes** in accordance with the ordering software, and images for selecting the application program are visually represented on the display 14 by the other software.
>
> First, . . . a decision is made to determine which of the game, shopping and auction modes has been selected by the intelligent remote control unit 10. In case none has been selected, the result of such decision is NO, and step S2 is executed repeatedly. If a user desires to play a specified game, the user can select the game by manipulating the intelligent remote control unit 10. . . .
>
> In response to this command, the cable box 1 down-loads, at step S4, the game program ordering software from the center via the cable network. . . .
>
> When the user has selected home shopping, the operation proceeds from step S2 to step S6. At step S6, shopping program ordering software is downloaded to the user's intelligent remote control unit 10. . . .
>
> In another case where the user has selected auction, the operation proceeds from step S2 to step S8 shown in FIG. 4, and an auction program is downloaded to the intelligent remote control unit 10." (Shintani, col. 4, line 58 – col. , line 67).

Accordingly, Shintani is directed to the download of specific types of applications for entering particular modes of operation. There is nothing in Shintani which discloses or suggests:

> "a **first source configured to convey television programming content;**
> a **second source configured to convey data corresponding to a product which is presented within the television programming content;**
> a mechanism configured to:
> combine said television programming content and said data; and

convey the combined television programming content and data as a broadcast stream; and

a third source configured to convey an interactive application, wherein said interactive application is executable to:

detect the data within the broadcast stream;

present an indication corresponding to the detected data **during presentation of the television programming content**;

receive user input corresponding to the indication; and

store information related to the product in response to receiving the user input;

wherein the user input is received and the information stored without interrupting presentation of the television programming content."

The notion of combining product data with television programming content in the manner recited is wholly absent from Shintani. Shintani is not directed to facilitating product purchases during television viewing of a presentation without interrupting the presentation and does not disclose features to that end. Further, Applicant finds no teaching or suggestion in Shintani of a mechanism configured to combine television programming content with data corresponding to a product which is presented within the television programming content. Instead, Shintani discloses conveying and downloading of selected applications. Rather, Shintani merely discloses downloading and executing a game, shopping, or auction application (mode) and making selections therein. For example, Shintani discloses:

"FIG. 3B is an exterior view illustrating a display example in home shopping. In this case also, functions allocated to the ten numeral keys and the software function switches 21 are visually represented on the display 14, as in the foregoing case. In this diagram, functions of "PREVIOUS", "NEXT", "ORDER", "CASH" and "CARD" are sequentially allocated rightward in that order. "PREVIOUS" is a function to indicate that the commodity displayed on the screen is replaced with an immediately preceding one; "NEXT" is a function to indicate the commodity displayed on the screen is replaced with a next one; ORDER is a function to indicate that the commodity being displayed now is ordered; "CASH" is a function to indicate that the ordered commodity is paid in cash; and "CARD" is a function to indicate that the ordered commodity is paid with a credit card." (Shintani, col. 4, lines 29-44.)

Accordingly, the concept of presenting programming content, detecting and presenting an indication corresponding to a product which may be purchased, and receiving user input which causes corresponding information to be stored without interrupting the presentation of the

programming content is quite distinct from the application download and execution mechanism of Shintani.

Similarly, Kenney nowhere discloses the features recited above. In contrast to television programming content as recited, Kenney is directed to creating a "virtual" environment which simulates pushing a shopping cart through a grocery store.

With respect to the above features, the following comments may serve to further clarify certain aspects of the invention. As noted in the Description of Related Art of the present Application, a number of obstacles exist between the offering of a product or service during television programming, and a viewer making a purchase of the product or service. For example, assuming such an offering is made during television programming (e.g., an advertisement), a viewer must remember something about the product (e.g., the name of the product). In addition, assuming the viewer remembers their interest in the product, the viewer must then go shopping for the product or service. However, the viewer may not know where to purchase the product or service or may only know of inconvenient locations for such a purchase. In some instances a viewer may seek to make the purchase online via the World Wide Web, but here again the viewer may be forced to perform searches to find a location to purchase the product or service. Consequently, there are obstacles that exist between the offerer of a product and a potential purchaser in the television viewing context. As may be appreciated, such obstacles may not generally exist in the context of a dedicated interactive shopping channel and/or application. In such cases, the express purpose of the shopping channel and associated content is to facilitate a product purchase. Applicant submits that the pending claims recite features that address these obstacles. However, neither Shintani nor Kenney discloses all of these features.

Therefore, Applicant submits claim 1 is patentably distinguishable from the cited art for at least these reasons. Further, because each of independent claims 16, 25 and 37 include features similar to that of claim 1, each of these claims is believed patentable as well. Further, as each of dependent claims 2-15, 17-24, 26-36, and 38-42 include at least the features of the independent claims upon which they depend, each of dependent claims 2-15, 17-24, 26-36, and 38-43 are patentable for at least the above reasons as well.

Additional Features Not Found in the Cited Art

In addition to the above, Applicant submits each of the dependent claims recite additional features which are nowhere disclosed or suggested by the cited art. Some examples of such additional features include claim 4 that further recites "wherein the television programming content comprises a movie, sporting event, and/or advertisement." As discussed above, none of the cited art discloses this manner of television programming combined in the manner recited. Accordingly, these particular examples of types of programming are not disclosed either.

In addition, claim 5 further recites the additional features "wherein the television programming content is not created for the purpose of selling the product." These features are wholly absent from the cited art.

Still further, claim 6 further recites the additional features "wherein the television programming content comprises a television program or movie, and wherein the product is presented during a scene of the television program or movie" which is wholly absent from the cited art.

With respect to these features of claims 4-6, the following comments may serve to further clarify. As noted above, typically, product or service information will be inserted into a broadcast stream to coincide with an advertisement for that product or service. However, product information may accompany any type of broadcast. For example, information related to a book which is being discussed on television may be added to the broadcast. Similarly, information related to music which is being played may be added to the broadcast. Further, information related to a product or service appearing in the scene of a movie or television show may be added to the broadcast. Further, as recited in the claims, data corresponding to the products comes from a second source. Consequently, scenarios such as the following are possible: (1) a movie is produced; (2) in one scene of the movie, a character wears a particular type of clothing; (3) when the movie is released, no one takes any particular notice of, or interest in, the particular clothing the character is wearing in the scene; (4) the movie completes its run and disappears from the movie theaters; (5) several years later, the movie is to be presented on television; (6) at this point

in time several years later, the particular clothes the character is wearing in the scene are in vogue; (7) seeing an opportunity to sell these clothes, the maker of the clothes wishes to reach potential customers; (8) product information corresponding to the clothes is then added to the television broadcast of the (now old) movie.
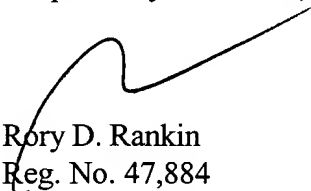
Applicant believes the above comments serve to address the examiner's questions and the application is in condition for allowance. However, should the examiner believe issues remain which would prevent the present application from proceeding to allowance, the undersigned representative requests a telephone interview at (512) 853-8866 in order to facilitate a resolution.

CONCLUSION

In light of the foregoing remarks, the Applicant submits that all pending claims are now in condition for allowance, and an early notice to that effect is earnestly solicited.

The Commissioner is authorized to charge any fees which may be required, or credit any overpayment, to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account No. 501505\5266-04000\RDR

Respectfully submitted,

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